

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

CHARLES LISTON,

Petitioner,

vs.

MICHAEL BOWERSOX,

Respondent.

Case No. 4:06CV00532 AGF

**MEMORANDUM AND ORDER**

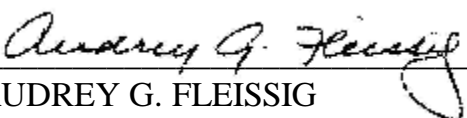
This matter is before the Court on Petitioner's motion for appointment of counsel.

Petitioner, a Missouri prisoner, filed this action pro se for federal habeas relief under 28 U.S.C. § 2254. "[T]here is neither a constitutional nor statutory right to counsel in habeas proceedings; instead, it is committed to the discretion of the trial court." Morris v. Dormire, 217 F.3d 556, 558 (8th Cir. 2000) (quoting McCall v. Benson, 114 F.3d 754, 756 (8th Cir. 1997)). In deciding whether to appoint counsel, the district court properly considers "the factual and legal complexity of the case, and the petitioner's ability both to investigate and to articulate his claims without court appointed counsel." Id. Upon review of the file, the Court concludes that the appointment of counsel is not necessary in this case.

Accordingly,

**IT IS HEREBY ORDERED** that Petitioner's motion for appointment of counsel is

**DENIED.** [Doc. #2]

  
AUDREY G. FLEISSIG  
UNITED STATES MAGISTRATE JUDGE

Dated this 3rd day of April, 2006.